

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Natisha Smith

(b) County of Residence of First Listed Plaintiff New Castle, DE
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Christopher R. Booth, Jr., Esq, 1835 Market Street, Suite
2950, Phila, PA 19103 215-518-6683

DEFENDANTS

Interim Health Care of Lower Montgomery County, et al.

County of Residence of First Listed Defendant Montgomery
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Steven Auerbach Esq., 822 Montgomery Ave, Suite 210,
Narbeth, PA 19072 215-964-4410

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. sec 1981

Brief description of cause:
Employment discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/07/2021

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 23 Auburn Drive, New Castle, DE 19720
 Address of Defendant: 540 Pennsylvania Avenue, Suite 101, Ft. Washington, PA 19034
 Place of Accident, Incident or Transaction: 540 Pennsylvania Avenue, Suite 101, Ft. Washington, PA 19034

RELATED CASE, IF ANY:


Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/07/2021



 Attorney-at-Law / Pro Se Plaintiff

59395

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
 (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases
 (Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Christopher R. Booth, Jr., counsel of record or pro se plaintiff, do hereby certify:

- ☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:
- ☐ Relief other than monetary damages is sought.

DATE: 04/07/2021



 Attorney-at-Law / Pro Se Plaintiff

59395

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

NATISHA SMITH,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No.:
	:	
INTERIM HEALTH CARE OF	:	
LOWER MONTGOMERY COUNTY	:	
<i>et al.</i> ,	:	
	:	
Defendants.	:	

COMPLAINT

Plaintiff, Natisha Smith, by her undersigned counsel, hereby avers as follows:

JURISDICTION

1. This is an employment discrimination case brought pursuant to the Civil Rights Act of 1866, 42 U.S.C. §1981, as amended by the Civil Rights Act of 1991 ("Section 1981"). The plaintiff, Natisha Smith, alleges that each of the defendants engaged in a pattern and practice of intentional employment discrimination and retaliation on the basis of race against Plaintiff.
2. The causes of action which form the basis of this matter arise under Section 1981.
3. The District Court has jurisdiction over Count I (Section 1981) pursuant to 28 U.S.C. §§ 1331 and 1343 (a)(4).
4. Venue is proper in the District Court under 28 U.S.C. § 1391(b) and (c).
5. Defendants are located within this District.

THE PARTIES

6. Plaintiff, Natisha Smith is an adult African-American female individual with an address located within the State of Delaware.

7. Defendant, INTERIM HEALTH CARE OF LOWER MONTGOMERY COUNTY (Defendant “Interim”) is a corporation authorized to conduct business within the Commonwealth of Pennsylvania, with an address located at 540 Pennsylvania Avenue, Fort Washington, PA 19034.
8. Defendant, PJK HEALTHCARE, INC. (Defendant “PJK”) is a corporation authorized to conduct business within the Commonwealth of Pennsylvania, with an address located at 540 Pennsylvania Avenue, Fort Washington, PA 19034.
9. Defendant, Justin Pak, is the owner of Defendant PJK, with an address located at 540 Pennsylvania Avenue, Fort Washington, PA 19034.

FACTUAL ALLEGATIONS

10. Around July 2015, Plaintiff was hired for the position of Program Director.
11. Around 2016, Plaintiff was promoted to manager and director over the nursing and office staff.
12. Around July 2017, PJK was sold to Defendant, Justin Pak, and the company began to operate under the name of Interim.
13. Also, Around July 1, 2017, PJK and Plaintiff entered into an Employment Agreement which set forth the terms of Plaintiff’s employment and compensation in her position as Program Director with PJK.
14. Shortly after Plaintiff was hired by Mr. Pak for her previously held position under previous management and ownership, Mr. Pak began to make racially insensitive and inappropriate comments about Ms. Smith’s hair.
15. Specifically, on several occasions, Mr. Pak made comments such as “why do you people put those things (braids) in your hair?”, asked if her hair was real, inappropriately

touched her hair and, stated that he had “worked down at Cecil B. Moore” and said “black women down there were always fighting, had nappy hair and sometimes it was flying around.”

16. Further, Mr. Pak asked why Plaintiff wears her hair differently so often.
17. Mr. Pak’s comments demonstrated a clear insensitivity and intolerance to diversity in the workplace.
18. Plaintiff objected to Mr. Pak’s comments and it was clear that he did not take her objections seriously.
19. Further, Plaintiff complained to Mr. Pak, John Matta (a senior Vice President at PJK), and the prior owner, Peter Kirsche, that the company had a policy and/or practice of excluding black nursing aides from servicing clients in predominantly white and/or affluent neighborhoods.
20. In response to Plaintiff’s report of this illegal practice, Mr. Pak stated, “I’m not racist, but I would like the white aides to be in the more prestigious neighborhoods.”
21. Plaintiff objected to this racist practice (as well as accommodating the racist requests of clients) and informed Mr. Pak that “You can’t do that. You can’t segregate the aides. Some of our best aides are black.”
22. In response, Mr. Pak and John Matta laughed at Plaintiff’s serious objections about the company’s racist policies and procedures.
23. Lastly, Plaintiff objected to and informed PJK of the financial abuse some of the company’s aides were engaging in with the company’s elder clients.

24. Some of PJK's white aides had known criminal felonies yet Mr. Pak refused to acknowledge the risks and reports from entities such as Mercy Health regarding the alleged elder financial abuse.
25. On the other hand, Mr. Pak refused to hire certain black male aide candidates and subjected them to a more extensive and intrusive hiring process than the other white aide candidates.
26. Plaintiff objected to this discriminatory practice.
27. Defendants at all times failed to investigate or take appropriate remedial action with respect to Plaintiff's claims of unlawful discrimination and harassment.
28. As a result, and in retaliation of her complaints as set forth above, Plaintiff was terminated on October 5, 2017.
29. Defendants at all times refused to investigate or take appropriate remedial action with respect to Plaintiff's complaints of harassment and discrimination.
30. As a result of Defendants' actions, Plaintiff felt extremely humiliated, degraded, victimized, embarrassed and emotionally distressed.
31. As a result of the acts and conduct complained of herein, Plaintiff has suffered and will continue to suffer the loss of income, the loss of salary, bonuses, benefits and other compensation which such employment entails, and Plaintiff also suffered future pecuniary losses, emotional pain, humiliation, suffering, inconvenience, loss of enjoyment of life, and other non-pecuniary losses. Plaintiff has further experienced severe emotional and physical distress.

32. As Defendants' conduct has been malicious, willful, outrageous, and conducted with full knowledge of the law, Plaintiff demands punitive damages as against all the Defendants, jointly and severally.

33. Defendants have exhibited a pattern and practice of not only discrimination but also retaliation.

34. The above are just some examples, of some of the discrimination to which Defendants subjected Plaintiff.

COUNT I
SECTION 1981
(Discrimination and Retaliation)

35. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this Complaint.

36. By committing the foregoing acts of racial discrimination, Defendants denied Plaintiff the right to "make and enforce contracts, to sue, be parties, [and] give evidence" and to be subject to "like punishment, pains, penalties, ... and exactions of every kind," as is "enjoyed by white citizens" in violation of Section 1981.

37. Said violations were done with malice and/or reckless indifference.

38. As a direct and proximate result of Defendant's violation of Section 1981, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

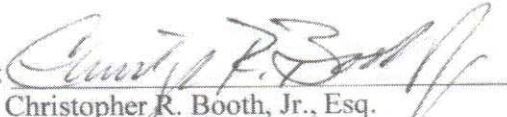
39. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant's discriminatory and retaliatory acts unless and until this Court grants the relief requested herein.

40. No previous application has been made for the relief requested herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, in an amount to be determined at the time of trial plus interest, including but not limited to all emotional distress and economic damages, punitive damages, liquidated damages, attorneys' fees, costs, and disbursements of action; and for such other relief as the Court deems just and proper.

DEREK SMITH LAW GROUP, PLLC
Attorneys for Plaintiff, Natisha Smith

By: 
Christopher R. Booth, Jr., Esq.
christopher@dereksmithlaw.com
1835 Market Street, Suite 2950
Philadelphia, Pennsylvania 19103
(215) 391-4790

Dated: April 7, 2021